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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/619,135	07/15/2003	Gerald Wayne Hankins	NEV652	7535
34356	7590	08/04/2004	EXAMINER	
ASHKAN NAJAFI, P.A. 113 LAMPLIGHTER LANE PONTE VERDA BEACH, FL 32082			HOEY, ALISSA L	
			ART UNIT	PAPER NUMBER
			3765	

DATE MAILED: 08/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/619,135

**Applicant(s)**

HANKINS, GERALD WAYNE

**Examiner**

Alissa L. Hoey

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Drawings*

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: Identifiers 22, 10" and 12" are found in figures 2 and 3, but not found in the specification. Corrected drawing sheets, or amendment to the specification to add the reference character(s) in the description, are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference character(s) mentioned in the description: Identifiers 21', 27', 28', 27 and 28 are defined in the specification but not found in the drawings. Corrected drawing sheets are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to

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obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "first and second ends of the strap with Velcro portion for connecting to each other" of claims 9, 15 and 19 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 9, 15 and 19 contain the trademark/trade name Velcro. Where a trademark or trade name is used in a claim as a limitation to identify or describe a particular material or product, the claim does not comply with the requirements of 35 U.S.C. 112, second paragraph. See *Ex parte Simpson*, 218 USPQ 1020 (Bd. App. 1982). The claim scope is uncertain since the trademark or trade name cannot be used properly to identify any particular material or product. A trademark or trade name is used to identify a source of goods, and not the goods themselves. Thus, a trademark or trade name does not identify or describe the goods associated with the trademark or trade name. In the present case, the trademark/trade name is used to identify/describe hook and loop fasteners and, accordingly, the identification/description is indefinite.

***Claim Objections***

5. Claims 9, 15 and 19 are objected to because of the following informalities: there is no antecedent basis for the first strap in claim 9. Further, it is unclear in claims 9, 15 and 19 how the first and second end of the strap connect to one another. Claim 9 has been examined as being dependent upon claim 6 for proper antecedent basis purposes. Appropriate correction is required.

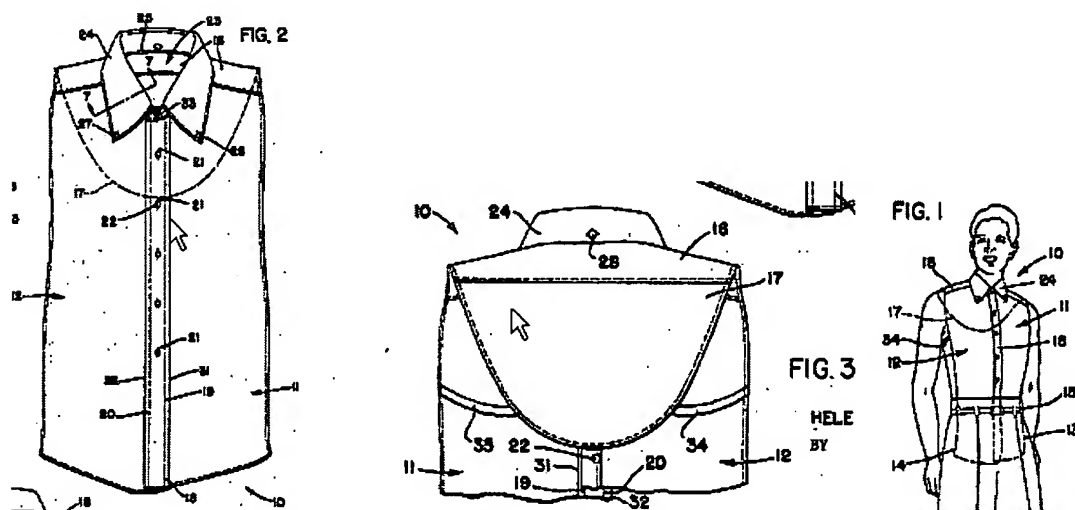
***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-5 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Gallagher (US 3,155,985).

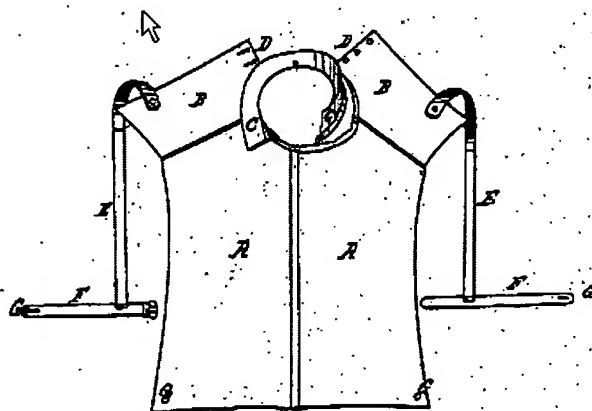


In regard to claims 1-5 and 8, Gallagher provides a dress shirt (10) comprising a collar portion (24), a front portion (11, 12), a back portion (16, 17) and a securing means (34, 35). The collar portion (24) fits around a neck of a user. The front portion (11, 12) has a centrally disposed longitudinal axis and includes a plurality of opposed outer edge portions spaced equally and outwardly from the longitudinal axis (figure 2). Further, the front portion (11, 12) has a top portion (16) connected to the collar portion (24) and a bottom portion (18) spaced from the top portion (16) and disposed generally about a waist of a user (figure 1). The back portion (16, 17) connected to the collar portion (24)

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and extending downwardly therefrom and having a bottom portion ending above the bottom portion (18) of the front portion (11, 12). Means for removably securing (34, 35) the back portion (16, 17) and the front portion (11, 12) in a stable position on a user. A plurality of inner edge portions (11, 12) aligned parallel to the longitudinal axis and overlap each other (19, 22). The inner edge portions include a plurality of slots (21) spaced from each other and a plurality of fastening members (22) spaced from each other. The slots (21) and the fasteners (22) are generally parallel to the longitudinal axis of the edge portions (11, 12) and interlock to each other (figure 2). The front portion (11, 12) has a width that is greater than a width of the bottom portion (18) thereof and the outer edge portions converge downwardly towards each other and end at the bottom portion (figure 2). The bottom portion has a substantially arcuate shape (figure 2, see bottom edge).

8. Claims 1, 6 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Tassie (US 5,019).



In regard to claims 1, 6 and 7, Tassie provides a dress shirt (A) comprising a collar portion (C), a front portion (A), a back portion (B) and a securing means (F). The

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collar portion (C) fits around a neck of a user. The front portion (A) has a centrally disposed longitudinal axis and includes a plurality of opposed outer edge portions spaced equally and outwardly from the longitudinal axis (A, A). Further, the front portion (A) has a top portion connected to the collar portion (C) and a bottom portion spaced from the top portion and disposed generally about a waist of a user (lines 22-31). The back portion (B) connected to the collar portion (C) and extending downwardly therefrom and having a bottom portion ending above the bottom portion of the front portion (A). Means for removably securing the back portion (B) and the front portion (A) in a stable position on a user. The securing means (F) comprising a first elastic strap (F) having a first end portion connected to one of the plurality of outer edge portions (G). The first strap having a second end portion (F) removably attached to another of the plurality of outer edge portions (G). The securing means further comprises a second elastic strap (E) having a first end portion connected to the back portion (B) and extending downwardly therefrom towards a waist of a person.

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tassie in view of Gershman (Velcro Digest).



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Tassie provides a dress shirt as described above in claims 1 and 6. Additionally, Tassie teaches that the elastic securing means is attached to the front panel by button fasteners. However, Tassie fails to teach the elastic securing means attached to the front panel by hook and loop (Velcro) fasteners.

Gershman provides the equivalence and interchangeability of button fasteners and hook and loop fasteners (see article).

It would have been obvious to have provided the button fasteners of Tassie in the form of hook and loop fasteners, since hook and loop fasteners provided on the elastic securing means of Tassie would allow quicker and easier donning and doffing of the dress shirt.

11. Claims 10-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gallagher in view of Tassie.

In regard to claims 10-19, Gallagher provides a dress shirt (10) comprising a collar portion (24), a front portion (11, 12), a back portion (16, 17) and a securing means (34, 35). The collar portion (24) fits around a neck of a user. The front portion (11, 12) has a centrally disposed longitudinal axis and includes a plurality of opposed outer edge portions spaced equally and outwardly from the longitudinal axis. Further, the front portion (11, 12) has a top portion (16) connected to the collar portion (24) and a bottom portion spaced from the top portion and disposed generally about a waist of a user (figure 1). The back portion (16, 17) connected to the collar portion (24) and extending downwardly therefrom and having a bottom portion ending above the bottom portion of the front portion. Means for removably securing (34, 35) the back portion (16, 17) and

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the front portion (11, 12) in a stable position on a user. A plurality of inner edge portion aligned parallel to the longitudinal axis and overlap each other. The inner edge portions include a plurality of slots (21) spaced from each other and a plurality of fastening members (22) spaced from each other. The slots (21) and the fasteners (22) are generally parallel to the longitudinal axis of the edge portions and interlocking to each other (figure 2). The front portion (11, 12) has a width that is greater than a width of the bottom portion thereof and the outer edge portions converge downwardly towards each other and end at the bottom portion (figure 2, see bottom edge of panels 11 and 12). The bottom portion has a substantially arcuate shape (figure 2, see bottom edge of panels 11, 12). Further, Gallagher teaches that the elastic securing straps (34, 35) can be attached to the front and back portions by any known fastening means (column 3, lines 33-41).

It would have been obvious to one having ordinary skill in the apparel arts to have included hook and loop fasteners as a known fastening means, since hook and loop fasteners are commonly used fastening means in garment articles.

However, Gallagher fails to teach the securing means including a first strap having a first end portion connected to one of a plurality of outer edge portion and a second end portion removably attachable to another of the plurality of outer edge portions. The securing means further comprises a second elastic strap having a first end portion connected to the back portion and extending downwardly therefrom and towards a waist of a person.

Tassie provides a dress shirt (A) comprising a collar portion (C), a front portion (A), a back portion (B) and a securing means (F). The collar portion (C) fits around a neck of a user. The front portion (A) has a centrally disposed longitudinal axis and includes a plurality of opposed outer edge portions spaced equally and outwardly from the longitudinal axis (A, A). Further, the front portion (A) has a top portion connected to the collar portion (C) and a bottom portion spaced from the top portion and disposed generally about a waist of a user (lines 22-31). The back portion (B) connected to the collar portion (C) and extending downwardly therefrom and having a bottom portion ending above the bottom portion of the front portion (A). Means for removably securing the back portion (B) and the front portion (A) in a stable position on a user. The securing means (F) comprising a first elastic strap (F) having a first end portion connected to one of the plurality of outer edge portions (G). The first strap having a second end portion (F) removably attached to another of the plurality of outer edge portions (G). The securing means further comprises a second elastic strap (E) having a first end portion connected to the back portion (B) and extending downwardly therefrom towards a waist of a person.

It would have been obvious to have provided the dress shirt of Gallagher with the securing means of Tassie, since the dress shirt of Gallagher having securing means that secure along the waist and down the center of the back would provide secure and proper placement of the dress shirt without having to worry about shifting of the dress shirt during wear and movement by the user.

***Conclusion***

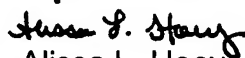
12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Stubrick, Caley, Haas, Vogl, Duke, Weil, Paulson, Lee, Simonson, Weissman, Kvistad, Snow, Goldstein, Russell, Iorio, Bello, Smith, Ottusch, Rendall, Metzger, Stein, Harrington, Wills, Thorpe, Pantzke, Lesavoy, Harmsen, McCool et al., Hughes, Coppage, Jr. et al., Jackson and Bercane are all cited to show closely related garments.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alissa L. Hoey whose telephone number is (703) 308-6094. The examiner can normally be reached on M-F (8:00-5:30) Second Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Calvert can be reached on (703) 305-1025. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Alissa L. Hoey  
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Technology Center 3700